



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 496-99

28 April 2000

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments

(2) Case Summary

(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Pfeiffer, McCulloch, and Ms. Hardbower reviewed Petitioner's allegations of error and injustice on 26 April 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 7 July 1997 for four years at age 19. The following day an entry was made in his record stating that he was being retained in the Naval Service, despite his fraudulent induction as evidenced by his failure to disclose two dependents.

d. On 16 July 1996 Petitioner was referred to the recruit evaluation unit due to his complaints of depression. He reported that he had attended six sessions of outpatient psychiatric counseling with family members after his mother's death, and had feelings of depression for more than two years. Since arriving at recruit training, he claimed an inability to adapt to the routine rigors of basic training, decreased sleep and appetite, recurrent suicidal thoughts, depression, an inability to relax, and difficulty in establishing relationships. However, he denied current suicidal or homicidal ideation. The evaluations of the recruit division commander and ship's officer documented fair performance. Petitioner was diagnosed with an unspecified depressive disorder. It was opined that his disorder was sufficiently severe to impair his ability to function effectively in a military environment and he posed a potential risk for harm to himself or others if retained. An entry level separation was recommended.

e. On 24 July 1997 Petitioner was notified that administrative separation was being initiated by reason of defective enlistment and induction due to erroneous enlistment as evidenced by the depressive disorder. He was advised of his procedural rights, declined to consult with counsel or submit a statement in his own behalf, and waived the right to have his case reviewed by the general court-martial convening authority. On 25 July 1997 the discharge authority directed an uncharacterized entry level separation by reason of erroneous enlistment. Petitioner was so discharged on 30 July 1997 and assigned an RE-4 reenlistment code.

f. Regulations authorize the assignment of an RE-3E or RE-4 reenlistment code to individuals who are separated by reason of erroneous enlistment. An RE-3E reenlistment code means an individual was enlisted in error but is eligible for reenlistment except for the disqualifying factor which led to discharge. An RE-4 reenlistment code means the individual is ineligible for reenlistment without prior approval from the Commander, Navy Personnel Command.

g. Petitioner provides a psychological evaluation conducted by a clinical psychologist more than a year after his discharge. The psychologist opined that it appears that Petitioner has completely resolved his feelings of grief over the loss of his mother and that he observed no psychiatric disorder during his evaluation of Petitioner.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner had no disciplinary or performance problems during his short period of service. The Board was not convinced he posed a risk for harm to himself or others and does not believe his service warranted the assignment of the most restrictive RE-4 reenlistment code. The Board concluded that it would be appropriate and just to change the reenlistment code to RE-3E to correspond with the reason for which he was discharged, especially given the favorable evaluation submitted with Petitioner's application.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 30 July 1997, to RE-3E. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

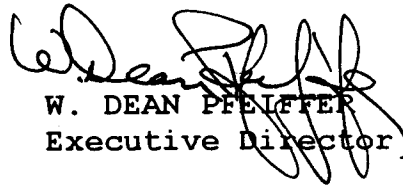
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of

Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director